

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DAPHNE P. RAND, by and through DEBRA J.
DOLCH, as Conservator of the Person and Estate
of DAPHNE P. RAND, Conservatee, on Behalf
of Themselves and All Others Similarly Situated,

Plaintiffs,

v.

AMERICAN NATIONAL INSURANCE
COMPANY, a Texas corporation,

Defendant.

No. C 09-639 SI

**ORDER DENYING DEFENDANT'S
REQUEST FOR A STAY OF FEBRUARY
9, 2010 DISCOVERY ORDER AND
DENYING LEAVE TO FILE A MOTION
FOR RECONSIDERATION**

This order addresses a dispute that has arisen regarding defendant's compliance with the Court's February 9, 2010 order.¹ In that order, the Court ordered defendant to produce class member identification materials. The Court held that the names and contact information of individuals who have purchased deferred annuities and submitted complaints to ANICO are relevant for class certification requirements, particularly issues of commonality, typicality and adequacy of representation. Out of a recognition of policyholders' privacy, the Court instructed plaintiff's counsel,

[T]o inform each policyholder at the outset of the initial contact that he or she has a right not to speak with counsel and that if he or she chooses not to speak with counsel, counsel will immediately terminate contact and not contact them again. Additionally, counsel will inform the policyholder that his or her refusal to speak with counsel will not prejudice his or her rights as a class member if the Court certifies a class. Finally, counsel is to keep a record for the Court of policyholders who make it known that they do not wish to be contacted.

Order at 3:15-20. The Court also noted that disclosure of policyholder identities is covered by the scope

¹ The parties' letter briefs are found at Docket Nos. 85, 86 and 88.

1 of the existing protective order in this case.

2 Defendant seeks a stay of the order in order to reach an agreement with plaintiffs' counsel about
3 a "script" to be used when plaintiff's counsel contacts policyholders. Plaintiff's counsel have
4 represented that they will comply with the Court's instructions, and the Court finds that an agreed-upon
5 script is unnecessary. Defendant's request for a stay is DENIED.

6 Defendant also requests leave to file a motion for reconsideration based upon an unpublished
7 decision in *In re Nat'l Western Life Ins. Deferred Annuities Litig.*, Case No. 05-CV-1018-JLS (LSP)
8 (S.D. Cal. Jan. 11, 2010), Docket No. 85 Ex. F. In that case, the court denied without prejudice a motion
9 to certify a class of a proposed class of annuity purchasers.² There is no discussion in the order about
10 the propriety of class member identification discovery, and the order does not provide any basis for
11 reconsideration of the Court's February 9, 2010 order. Instead, defendant's motion for leave to file a
12 motion for reconsideration simply reargues the contentions that the Court previously rejected.
13 Defendant's request for leave to file a motion for reconsideration is DENIED.

14 Defendant shall comply with the February 9, 2010 order no later than **March 12, 2010**.

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16 **IT IS SO ORDERED.**

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18 Dated: March 3, 2010

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20 SUSAN ILLSTON
21 United States District Judge
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28 ² According to plaintiffs, the plaintiffs in the *National Western Life* case recently filed a new
class certification motion.